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7

8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 UNITED STATES OF AMERICA,
11
12 Plaintiff,
13 v.
14 MARIA MAGDALENA MENDOZA,
15 Defendant.

Case No. 2:20-cr-00212-RFB-BNW
**STIPULATION TO CONTINUE
TRIAL DATES**
(Seventh Request)

16
17 IT IS HEREBY STIPULATED AND AGREED, by and between Jason M.
18 Frierson, United States Attorney, and Simon F. Kung, Assistant United States
19 Attorney, counsel for the United States of America, and Rene L. Valladares,
20 Federal Public Defender, Joanne L. Diamond, Assistant Federal Public Defender,
21 counsel for Maria Magdalena Mendoza, that the calendar call currently scheduled
22 for September 6, 2022, at 1:30 p.m., and the trial scheduled for September 12, 2022,
23 at 9:00 a.m., be vacated and set to a date and time convenient to this Court, but no
24 sooner than ninety (90) days.

25 The Stipulation is entered into for the following reasons:
26

1 1. Counsel for Ms. Mendoza, Assistant Federal Public Defender Joanne
2 Diamond, was recently assigned to this case. She entered her notice of appearance
3 on April 15, 2022, ECF No. 61, replacing formerly assigned counsel, Assistant
4 Federal Public Defender Brian Pugh.

5 2. Mr. Pugh was Ms. Mendoza's counsel of record for over a year. ECF
6 No. 33. It will take time for Ms. Diamond to develop a similarly effective working
7 relationship with Ms. Mendoza.

8 3. Since her assignment to the case, Ms. Diamond has been focusing her
9 efforts on preparing for the upcoming evidentiary hearing on Ms. Mendoza's
10 Motion to Suppress, ECF. No. 44. She needs additional time to become sufficiently
11 familiar with the discovery in this case to determine whether any further
12 investigation is required in order to effectively advise Ms. Mendoza as to any
13 available trial defenses, and to effectively counsel her in deciding whether her case
14 will ultimately go to trial or resolve through negotiations.

15 4. The defendant is not incarcerated and does not object to the
16 continuance.

17 5. The parties agree to the continuance.

18 6. The additional time requested herein is not sought for purposes of
19 delay, but merely to allow counsel for defendant sufficient time within which to be
20 able to effectively complete investigation of the discovery materials provided.

21 7. Additionally, denial of this request for continuance could result in a
22 miscarriage of justice. The additional time requested by this Stipulation is
23 excludable in computing the time within which the trial herein must commence
24 pursuant to the Speedy Trial Act, Title 18, United States Code, Section
25 3161(h)(7)(A), considering the factors under Title 18, United States Code, Section
26 3161(h)(7)(B)(i), (iv).

1 This is the seventh stipulation to continue filed herein.

2 DATED this 9th day of August, 2022.

3 RENE L. VALLADARES
4 Federal Public Defender

JASON M. FRIERSON
Acting United States Attorney

5 By /s/ Joanne L. Diamond
6 JOANNE L. DIAMOND
7 Assistant Federal Public Defender

By /s/ Simon F. Kung
SIMON F. KUNG
Assistant United States Attorney

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARIA MAGDALENA MENDOZA,

Defendant.

Case No. 2:20-cr-00212-RFB-BNW

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER

FINDINGS OF FACT

Based on the pending Stipulation of counsel, and good cause appearing therefore, the Court finds that:

1. Counsel for Ms. Mendoza, Assistant Federal Public Defender Joanne Diamond, was recently assigned to this case. She entered her notice of appearance on April 15, 2022, ECF No. 61, replacing formerly assigned counsel, Assistant Federal Public Defender Brian Pugh.

2. Mr. Pugh was Ms. Mendoza's counsel of record for over a year. ECF No. 33. It will take time for Ms. Diamond to develop a similarly effective working relationship with Ms. Mendoza.

3. Since her assignment to the case, Ms. Diamond has been focusing her efforts on preparing for the upcoming evidentiary hearing on Ms. Mendoza's Motion to Suppress, ECF. No. 44. She needs additional time to become sufficiently familiar with the discovery in this case to determine whether any further investigation is required in order to effectively advise Ms. Mendoza as to any available trial defenses, and to effectively counsel her in deciding whether her case will ultimately go to trial or resolve through negotiations.

1 4. The defendant is not incarcerated and does not object to the
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9 excludable in computing the time within which the trial herein must commence
10 pursuant to the Speedy Trial Act, Title 18, United States Code, Section
11 3161(h)(7)(A), considering the factors under Title 18, United States Code, Section
12 3161(h)(7)(B)(i), (iv).

13 **CONCLUSIONS OF LAW**

14 The ends of justice served by granting said continuance outweigh the best
15 interest of the public and the defendant in a speedy trial, since the failure to grant
16 said continuance would be likely to result in a miscarriage of justice, would deny
17 the parties herein sufficient time and the opportunity within which to be able to
18 effectively and thoroughly prepare for trial, taking into account the exercise of due
19 diligence.

20 The continuance sought herein is excludable under the Speedy Trial Act,
21 Title 18, United States Code, Section § 3161 (h)(7)(A), when considering the factors
22 under Title 18, United States Code, § 3161(h)(7)(B)(i), (iv).

23 **ORDER**

24 IT IS THEREFORE ORDERED that trial briefs, proposed voir dire
25 questions, proposed jury instructions, and a list of the Government's prospective
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witnesses must be electronically submitted to the Court by the 30th day of December, 2022, by the hour of 4:00 p.m.

IT IS FURTHER ORDERED that the calendar call currently scheduled for September 6, 2022, at the hour of 1:30 p.m., be vacated and continued to January 3, 2023 at the hour of 1:30 p.m.; and the trial currently scheduled for September 12, 2022, at the hour of 9:00 a.m., be vacated and continued to January 9, 2023 at the hour of 9:00 a.m.

DATED this 10th day of August, 2022.



RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE